

HOUSE BILL 3488
By Hackworth

AN ACT to amend Tennessee Code Annotated, Title 8,
Chapter 10 and Title 55, Chapter 9, Part 4, relative
to constables and to enact the "Uniform Constable
Accountability Act of 2006".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Uniform Constable
Accountability Act of 2006".

SECTION 2. Tennessee Code Annotated, Section 8-10-101, is amended by deleting
subsection (a) in its entirety and by substituting instead the following language:

(a)

(1) Two (2) constables shall be elected by the qualified voters in the civil district
of each county which includes the county town, and one (1) in every other civil district of
the county, each of whom shall hold office for two (2) years, and until the qualification of
a successor. The office of constable may only be abolished in a county pursuant to
subsection (o) below.

(2) All constables elected to a four (4) year term, as permitted by the procedure
established in this subsection (a), before July 1, 1983, are declared validly elected and
shall have the powers and duties established in this chapter and otherwise established
by law.

(3)

(A) The voters of any county may, by local option election, permit the
office of constable, with all law enforcement powers attendant thereto, or permit
the office of constable, without law enforcement powers, within the territorial
limits of such county, by a majority vote, at an election held as hereinafter

provided, and, in the event of such permission, the office of constable in such county is created and authorized.

(B) In like manner, the voters of any county, at any time while this chapter is in effect, may, by local option election, add or remove law enforcement powers from the office of constable in such county, within the territorial limits of such county, by a majority vote, at an election to be held as hereinafter provided, and:

(i) In the event of a majority vote to add law enforcement powers, the office of constable in such county shall be vested with law enforcement powers; or

(ii) In the event of a majority vote to remove law enforcement powers, the office of constable in such county shall not be vested with law enforcement powers.

(C)

(i) Elections provided for in subdivisions (a)(3)(A) and (a)(3)(B) shall be called and held as elections on questions by the county election commission at the next regular election of the county upon receipt of a petition signed by residents of the county to a number amounting to ten percent (10%) or more of the votes cast in the county for governor of the state of Tennessee at the then last preceding gubernatorial election, requesting the holding of such election. Except that, no election under this chapter may be placed on the same ballot or conducted on the same day of a primary election. Such petition shall be addressed to the county election commission of such county except for such address, substantially as follows:

"We, registered voters of _____ (here insert name of county, as the case may be), do hereby request the holding of a local option election to _____ (here insert "authorize the office of constable with law enforcement powers" or "authorize the office of constable without law enforcement powers" or "invest law enforcement powers to the office of constable" or "remove law enforcement powers from the office of constable", as the case may be) as provided by law."

(ii) Such petition may be in two (2) or more counterparts.

(D) Registered voters of the county may vote in the election. Ballots shall be in the form prescribed by the general election laws of the state.

(E) In such elections, the county election commission shall hold a prior supplemental registration, unless such election is at the time of a general election, with such supplemental registration to be held at the time and in the manner prescribed by law for the holding of supplemental registration previous to the election for members of the general assembly.

(F)

(i) The county election commission shall certify the results of the election to the county executive in county elections.

(ii) Not more than one (1) election in any such county shall be held under the provisions of this chapter within any period of twenty-four (24) months.

(iii) Should any county conduct a local option election under the provisions of this chapter in conjunction with any general election, and the

number of qualified votes cast negative to the local option proposition exceeds sixty percent (60%) of the total number of votes cast in the election, no further local option election in such county shall be held for a period of four (4) years from the date of such previous election.

SECTION 3. Tennessee Code Annotated, Section 8-10-101, is amended by adding the following language as a new subsection (o):

(o) The office of constable shall be abolished in a county only by a recall election subject to the following requirements:

(1) Before a petition for the abolition of the office of constable may be circulated, at least one (1) registered voter of the county shall file with the county election commission:

(A) The proper form of the petition; and

(B) The text of the question posed in the petition.

(2) The county election commission shall certify whether the petition is in proper form within thirty (30) days after the filing of the documentation required by subdivision (o)(1). The individual or individuals filing the petition shall have fifteen (15) days to cure any defects in the documentation required by subdivision (o)(1) by filing revised documentation in proper form with the county election commission. The county election commission shall determine within five (5) days whether or not the revised documentation shall be certified for final approval.

(3) Petitions shall be signed by at least fifteen percent (15%) of those registered to vote in the county. The disqualification of one (1) or more signatures shall not render a petition invalid, but shall disqualify such signatures from being counted towards the statutory minimum number of signatures required in this subsection.

(4) Upon filing, each completed petition shall contain the following:

(A) The full text of the question attached to each petition for the abolition of the office of constable;

(B) The genuine signature and address of registered voters only, pursuant to the same requirements as §2-1-107;

(C) The printed name of each signatory; and

(D) The date of signature.

(5)

(A) Completed petitions shall be filed with the county election commission within seventy-five (75) days after final certification by the county election commission as required by subdivision (o)(2).

(B) In addition, a petition for the abolition of the office of constable shall be filed at least sixty (60) days before a general county election may be held on the question contained in such petition. The question contained in a petition filed less than sixty (60) days before an upcoming general county election shall be placed on the ballot of the following general county election.

(6) Any person may request, either in person or in writing, that the county election commission remove such person's name from a petition. Such request must be made within eight (8) days of filing of the completed petition and before final certification by the county election commission of the petition.

(7) The county election commission shall certify whether or not the completed petition meets all applicable requirements within thirty (30) days of filing of the completed petition.

(8) Upon certification by the county election commission pursuant to subdivision (o)(7), the election commission shall publish the question contained in the petition pursuant to §2-12-111.

SECTION 4. Tennessee Code Annotated, Section 8-10-102, is amended by deleting the section in its entirety and by substituting instead the following language:

§8-10-102.

(a) After January 1, 2007, to qualify for election or appointment to the office of constable, a person shall:

- (1) Be at least twenty-one (21) years of age;
- (2) Be a qualified voter of the district;
- (3) Be able to read and write;
- (4) Have obtained a high school diploma or its equivalent in educational training as recognized by the state board of education;
- (5) Not have been convicted in any federal or state court of a felony;
- (6) Not have been convicted of a misdemeanor or felony involving domestic violence;
- (7) Be fingerprinted and have the Tennessee bureau of investigation make a search of local, state and federal fingerprint files for any criminal record. Fingerprints are to be taken under the direction of the Tennessee bureau of investigation, which shall forward all criminal history results to the county election commission for evaluation of qualifications;
- (8) Not have been separated or discharged from the armed forces of the United States with other than an honorable discharge; and
- (9) Have been certified by a qualified professional in the psychiatric or psychological fields to be free of all apparent mental disorders.

(b) Any person seeking the office of constable shall file with the county election commission, along with the nominating petition, an affidavit signed by the candidate affirming that the candidate meets the requirements of this section. In the event that person seeks election to the office of constable by the county legislative body to fill a vacancy in office, the same affidavit shall be filed with the county clerk prior to the election.

SECTION 5. Tennessee Code Annotated, Section 8-10-106(a), is amended by deleting the language "The bond shall be in a penalty of not less than four thousand dollars (\$4,000) nor more than eight thousand dollars (\$8,000), at the discretion of the body," and by substituting instead the language "The bond shall be in a penalty of not less than twenty-five thousand dollars (\$25,000), or in a greater sum as the county legislative body may determine,".

SECTION 6. Tennessee Code Annotated, Section 8-10-119, is amended by deleting the section in its entirety and by substituting instead the following language:

§8-10-119.

(a) All constables shall wear the official uniform of the type and design with the insignias of the Tennessee constable as described in subsection (b).

(b) The official uniform for the constable shall consist of:

(1) Taupe pants with a one-inch (1") wide brown stripe running vertically down each side of the pants;

(2) Shirts of either dark brown or white, at the discretion of the constable, displaying proper identification and a uniform badge of a design approved by the Tennessee constable council association;

(3) A necktie of either taupe or brown, at the discretion of the constable;
and

(4) Black leather gear and black shoes. Western type belts, holsters and tie-downs are prohibited.

(c) The provisions of this section do not apply in any county which has removed from constables any law enforcement powers.

SECTION 7. Tennessee Code Annotated, Section 8-10-120, is amended by deleting the section in its entirety and by substituting instead the following language:

§8-10-120.

(a)

(1) Constable patrol cars shall display conspicuous markings of at least one and one-half inches (1 ½") in height and fifteen inches (15") in width, with the word "Constable" on both sides of the vehicle.

(2) Constable patrol cars may be white with a brown stripe running horizontally along the upper side. This color scheme shall not be used by any other state or local law enforcement official or agency; provided, that any state or local law enforcement official or agency that was using such color scheme on March 29, 1996, may continue to use such color scheme. When adopted for use by a county constable, the stripe design and other emblems and lettering shall conform to the official uniform markings adopted by the Tennessee association of constables.

(3) On or after July 1, 2010, all constable patrol cars shall be white.

(b) Constable patrol cars which conform to the description in subsection (a), which are authorized as provided in §55-9-414, and which are used as emergency vehicles, may be equipped with blue lights and/or red lights and sirens.

(c) Nothing in this section shall prohibit a county constable from operating unmarked cars for other law enforcement purposes.

(d) Any constable operating a patrol car and using the lights described in this section shall have graduated from the last calendar date in-service training required by §8-10-202.

(e) Each constable shall be responsible for all costs in marking patrol cars.

SECTION 8. Tennessee Code Annotated, Section 8-10-202, is amended by deleting the section in its entirety and by substituting instead the following language:

§8-10-202.

(a) Each constable shall complete forty (40) hours of in-service course time by June 1 of the year following the constable's election and an additional forty (40) hours of in-service training by June 1 of each subsequent year during the term for which the constable was elected.

(b) The training required by this section shall be made available by the Tennessee association of constables to allow for the completion of training prior to June 1 of each calendar year and the issuance of a certificate of such training to the constable no later than June 15 immediately following. The Tennessee bureau of investigation shall approve such certification standards.

(c) Upon receipt of a certificate of training issued by the Tennessee association of constables, the constable shall immediately file a copy of the certificate with the county clerk in which the constable serves. Failure to file the certificate of training with the county clerk by June 30 of each year shall subject such constable to vacation of office of constable by that constable.

SECTION 9. Tennessee Code Annotated, Title 8, Chapter 10, Part 2, is amended by adding the following language as a new section:

§8-10-207.

Constables who fail to adhere to the provisions of this act shall be subject to the governing ethical standards enacted by the county in which such constables are elected pursuant to the provisions of Chapter ____ of the Public Acts of 2006 (SB 7001/HB 7001) upon the adoption of such ethical standards and appropriate notification to, or filing with, the ethics commission.

SECTION 10. This act shall take effect July 1, 2006, the public welfare requiring it.